

# SENATE JOURNAL

## OF THE

# IDAHO LEGISLATURE

FIRST REGULAR SESSION  
SIXTIETH LEGISLATURE

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THIRTY-NINTH LEGISLATIVE DAY  
THURSDAY, FEBRUARY 19, 2009

Senate Chamber

President Little called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senator Davis and Acting Senators Sagness and Thorson, absent and formally excused by the Chair; and Senators Coiner and LeFavour, absent and excused.

Prayer was offered by Chaplain Henry Webb.

The Pledge of Allegiance was led by Porter Chelson, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 18, 2009, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

### Petitions, Resolutions, and Memorials

#### SCR 104

#### BY JUDICIARY AND RULES COMMITTEE

##### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE DOCKET OF THE FISH AND GAME COMMISSION RELATING TO RULES GOVERNING LICENSING.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Fish and Game Commission relating to Rules

Governing Licensing is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 13.01.04, Rules Governing Licensing, Rules of the Fish and Game Commission, adopted as a pending rule under Docket Number 13-0104-0803, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

#### SCR 105

#### BY JUDICIARY AND RULES COMMITTEE

##### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE DOCKET OF THE FISH AND GAME COMMISSION RELATING TO RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Fish and Game Commission relating to Rules Governing the Taking of Big Game Animals in the state of Idaho is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 13.01.08, Rules Governing the Taking of Big Game Animals in the state of Idaho, Rules of the Fish and Game Commission, adopted as a pending rule under Docket Number 13-0108-0801, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

#### SCR 106

#### BY JUDICIARY AND RULES COMMITTEE

##### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE DOCKET OF THE DEPARTMENT OF PARKS AND RECREATION RELATING TO RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Department of Parks and Recreation relating to Rules Governing the Administration of Park and Recreation Areas and Facilities is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities, Rules of the Department of

Parks and Recreation, adopted as a pending rule under Docket Number 26-0120-0802, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

[SCR 104](#), [SCR 105](#), and [SCR 106](#) were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

#### Reports of Standing Committees

Senator LeFavour was recorded present at this order of business.

February 19, 2009

The JUDICIARY AND RULES Committee reports that [S 1119](#) and [S 1120](#) have been correctly printed.

DARRINGTON, Chairman

[S 1119](#) and [S 1120](#) were referred to the State Affairs Committee.

February 19, 2009

The JUDICIARY AND RULES Committee reports that [S 1009](#) has been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled [S 1009](#) and ordered it transmitted to the House for the signature of the Speaker.

February 19, 2009

The JUDICIARY AND RULES Committee reports that Enrolled [SCR 102](#) was delivered to the Office of the Secretary of State at 2:24 p.m., February 18, 2009.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

February 18, 2009

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Brad Little as Lieutenant Governor of the State of Idaho, term to continue until the next general election.

MCKENZIE, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 18, 2009

The RESOURCES AND ENVIRONMENT Committee reports out [H 31](#) with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

SCHROEDER, Chairman

There being no objection, [H 31](#) was referred to the Fourteenth Order of Business, General Calendar.

February 19, 2009

The FINANCE Committee reports out [H 85](#) and [H 86](#) with the recommendation that they do pass.

CAMERON, Chairman

[H 85](#) and [H 86](#) were filed for second reading.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

#### Messages from the Governor

January 29, 2009

The Honorable Brad Little  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Anna Jane "Janie" Dressen of Coeur d'Alene, Idaho, was appointed as a member of the State Board of Correction to serve a term commencing January 22, 2009, and expiring January 1, 2015.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*  
/s/ C.L. "Butch" Otter  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Judiciary and Rules Committee.

February 17, 2009

The Honorable Brad Little  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Carla R. Campo of Fruitland, Idaho, was appointed as a member of the Idaho Bingo-Raffle Advisory Board to serve a term commencing January 7, 2009, and expiring January 7, 2012.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*  
/s/ C.L. "Butch" Otter  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the State Affairs Committee.

The Senate advanced to the Ninth Order of Business.

#### Messages from the House

February 19, 2009

Dear Mr. President:

I transmit herewith [H 40](#), [H 45](#), and [H 76](#), which have passed the House.

ALEXANDER, Chief Clerk

[H 40](#), [H 45](#), and [H 76](#) were filed for first reading.

February 19, 2009

Dear Mr. President:

I return herewith [S 1044](#), which has passed the House.

ALEXANDER, Chief Clerk

[S 1044](#) was referred to the Judiciary and Rules Committee for enrolling.

February 19, 2009

Dear Mr. President:

I transmit herewith Enrolled [H 20](#) for the signature of the President.

ALEXANDER, Chief Clerk

The President signed Enrolled [H 20](#) and ordered it returned to the House.

The Senate advanced to the Tenth Order of Business.

#### Motions and Resolutions

Senator Coiner was recorded present at this order of business.

The President announced that the Education Committee report relative to the Gubernatorial appointment of Richard D.

Westerberg was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by President Pro Tempore Geddes, seconded by Senator Kelly, the Gubernatorial appointment of Richard D. Westerberg as a member of the State Board of Education was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that the Local Government and Taxation Committee report relative to the Gubernatorial appointment of Linda Pike was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Stegner, seconded by Senator Werk, the Gubernatorial appointment of Linda Pike as a member of the Board of Tax Appeals was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that the Commerce and Human Resources Committee report relative to the Gubernatorial appointment of Terry Gestrin was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Goedde, seconded by Senator LeFavour, the Gubernatorial appointment of Terry Gestrin as a member of the State Insurance Fund Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that [HCR 10](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Stegner, seconded by Senator Kelly, [HCR 10](#) was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The Senate advanced to the Eleventh Order of Business.

#### Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

##### S 1121

##### BY JUDICIARY AND RULES COMMITTEE

##### AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205, IDAHO CODE, TO PROVIDE FOR NOTICE OF A PUBLIC HEARING, TO PROVIDE

FOR COMMENTS AND TO MAKE A TECHNICAL CORRECTION.

**S 1122**  
**BY JUDICIARY AND RULES COMMITTEE**  
AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1351, IDAHO CODE, TO REVISE PROVISIONS RELATING TO OPTIONAL RETIREMENT ALLOWANCES; AMENDING SECTION 59-1352, IDAHO CODE, TO CLARIFY A REQUIREMENT OF ELIGIBILITY FOR DISABILITY RETIREMENT; AND AMENDING SECTION 59-1355, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

S 1121 and S 1122 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 40, by Business Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

H 45, by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 76, by Business Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

The Senate advanced to the Twelfth Order of Business.

**Second Reading of Bills**

S 1079, by Education Committee, was read the second time at length and filed for third reading.

S 1054 and S 1097, by Transportation Committee, were read the second time at length and filed for third reading.

S 1076, by Health and Welfare Committee, was read the second time at length and filed for third reading.

S 1091, by Local Government and Taxation Committee, was read the second time at length and filed for third reading.

H 1, by Business Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

**Third Reading of Bills**

On request by Senator Stegner, granted by unanimous consent, H 80 was placed before the Senate for consideration at this time.

H 80 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bair arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Fulcher, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Werk, Winder. Total - 31.

NAYS—None.

Absent and excused—Davis, Geddes, Sagness (Malepeai), Thorson (Stennett). Total - 4.

Total - 35.

Whereupon the President declared H 80 passed, title was approved, and the bill ordered returned to the House.

S 1053 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hammond arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

On request by Senator Hammond, granted by unanimous consent, S 1053 retained its place on the Third Reading Calendar for Monday, February 23, 2009.

On request by Senator Corder, granted by unanimous consent, S 1055 was referred to the Fourteenth Order of Business, General Calendar.

S 1061 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Heinrich arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Coiner, Corder, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Werk, Winder. Total - 30.

NAYS—Cameron, Darrington. Total - 2.

Absent and excused—Davis, Sagness (Malepeai), Thorson (Stennett). Total - 3.

Total - 35.

Whereupon the President declared S 1061 passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

**Miscellaneous Business**

On motion by Senator Stegner, seconded by Senator Kelly, by voice vote, the Senate adjourned at 12:02 p.m. until the hour of 10:30 a.m., Friday, February 20, 2009.

BRAD LITTLE, President

Attest: JEANNINE WOOD, Secretary